

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

WASHIE OUMA,

No. 3:18-cv-00888-AC

Plaintiff,

v.

ASHER TYLER, et al.,

ORDER

Defendants.

HERNANDEZ, District Judge:

Magistrate Judge Acosta issued a Findings & Recommendation (#27) on May 30, 2019, in which he recommends the Court dismiss Plaintiff's Complaint for lack of subject matter jurisdiction, allow Plaintiff leave to amend, and deny Defendants' motion to dismiss as moot. Plaintiff has timely filed objections to the Findings & Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings & Recommendation, the district court must make a *de novo* determination of that portion of the

Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Plaintiff's objections and conclude there is no basis to modify the Findings & Recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no other errors in the Magistrate Judge's Findings & Recommendation.

While the Findings & Recommendation was pending for review, Plaintiff filed an Amended Complaint, ECF 29. There, as he does in the objections to the Findings & Recommendation, Plaintiff asserts diversity jurisdiction based on the Class Action Fairness Act (CAFA), which he contends modifies the complete diversity requirement. Am. Compl. at p. 4. The Amended Complaint is not pleaded as a class action and contains no allegations suggesting the Plaintiff desires to represent a class. Nothing about the application of CAFA in this case alters the diversity requirements that Judge Acosta carefully explained in the Findings & Recommendation. Because the Amended Complaint continues to provide no basis for either federal question jurisdiction or federal diversity jurisdiction, I dismiss the Amended Complaint.

Finally, even though Judge Acosta has provided Plaintiff with the applicable law regarding federal subject matter jurisdiction and explained why the original Complaint failed to establish such jurisdiction, Plaintiff failed to file an Amended Complaint which cured the deficiencies. It appears to this Court that the allegations are incapable of establishing federal subject matter jurisdiction. Thus, this action is dismissed with prejudice to refiling the claims against these defendants in federal court.

## CONCLUSION

The Court ADOPTS Magistrate Judge Acosta's Findings & Recommendation [27], and

therefore, the Complaint [1] is dismissed and Defendants' motion to dismiss [13] is denied as moot. Furthermore, the Amended Complaint [29] is dismissed and this action is dismissed with prejudice to refiling the claims against these defendants in federal court.

IT IS SO ORDERED.

DATED this 19 day of June, 2019.

  
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MARCO A. HERNANDEZ  
United States District Judge